Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 790 (Senator Kagan)
Finance

Unemployment Insurance – Reimbursing Employers – Deferral of Payment During a State of Emergency for COVID–19

This emergency bill allows certain nonprofit or governmental entities – those who have elected to reimburse the Unemployment Insurance Trust Fund (UITF) for unemployment insurance (UI) payments – to defer repayment of amounts owed for up to one year after the state of emergency declared by the Governor due to the COVID-19 pandemic ends, subject to specified requirements. The bill applies only prospectively and may not be applied or interpreted to have any effect on or application to any bill (for reimbursement) sent by the Secretary of Labor to a nonprofit or governmental entity before the effective date of the bill. **The bill terminates one year after the state of emergency declared by the Governor due to the COVID-19 pandemic ends.**

Fiscal Summary

State Effect: Federal fund revenues and federal/general fund expenditures for the Maryland Department of Labor (MDL) increase to the extent that the department requires additional administrative funding to implement the bill, beginning in FY 2021. Nonbudgeted UITF revenues decrease in FY 2021 and 2022, and increase in FY 2023, as discussed below. Nonbudgeted UITF expenditures are affected only to the extent that funds are used to repay the principal on outstanding loans, beginning as early as FY 2022. General fund expenditures may increase for interest payments, beginning as early as FY 2022. State expenditures (all funds) decrease in FY 2021 and 2022, and increase in FY 2023, if the State chooses to defer reimbursements as authorized under the bill.

Local Effect: Local expenditures decrease in FY 2021 and 2022, and increase in FY 2023, if local governments choose to defer reimbursements, as authorized under the bill. Revenues are not affected.

Small Business Effect: None, as discussed below.

Analysis

Current Law: Most Maryland employers pay State UI taxes, although State and local governments and some nonprofit organizations reimburse UITF for claims paid in lieu of paying taxes. State UI taxes and reimbursements are typically due quarterly; however, Chapter 39 of 2021 allows employers with fewer than 50 employees to defer 2021 State UI tax payments or reimbursements until January 31, 2022, and authorizes the Secretary of Labor to offer a similar deferment in 2022.

Reimbursing employers received a 50% federal credit for UI benefits paid under the federal Coronavirus Aid, Relief, and Economic Security Act from mid-March 2020 through December 2020, which was subsequently extended through mid-March 2021. (In practice, this means UITF receives federal payments for 50% of the benefits paid during that time.)

For more information on the State's UI program, see the **Appendix – Unemployment Insurance**.

State Fiscal Effect:

Administrative Costs

MDL indicates administrative costs of approximately $100,000 are necessary to implement the bill (mailings and related costs). If existing federal administrative funds are insufficient to cover such expenses, additional above-base federal funding will be provided, assuming that the expenses are allowable, beginning in fiscal 2021. Otherwise, general funds are needed to cover those costs.

Unemployment Insurance Trust Fund

The bill allows reimbursing employers to delay payments, which are normally billed and owed quarterly, until one year after the COVID-19 state of emergency ends. The overall effect is complicated by Chapter 39, which authorizes deferrals for small nonprofits, as described above. That said, assuming the state of emergency ends in the second half of 2021, the bill defers a portion of reimbursements until the second half of 2022, which reduces UITF revenues in fiscal 2021 and 2022, and increases UITF revenues in fiscal 2023. For context, MDL advises that reimbursing employers paid $35.8 million in 2019.

Typically, since a deferral does not reduce amounts owed, the bill's effect would be limited to potentially reallocating revenue between fiscal years, with some foregone interest revenue. However, depending on the UITF balance (or lack thereof) over time, a delay in UITF revenues received may result in additional borrowing to cover MDL's cash flow needs as UITF recovers from COVID-19-related benefit payments. Interest on balances owed to the federal government must be paid back – with State general funds or some other source, not UITF – at the end of each September. The current interest rate on federal loans for UI programs is 2.277%, although that is deferred through mid-March 2021 under the December stimulus bill. Interest payments would begin as early as fiscal 2022. UITF expenditures are affected only to the extent that funds are used to repay the principal on outstanding loans, beginning as early as fiscal 2022.

State as an Employer

The State, as an employer, also reimburses UITF, and is affected in the same way as nonprofits – namely, payments may be deferred beginning in fiscal 2021 through one year after the end of the COVID-19 state of emergency. To the extent that the State chooses to do so, State expenditures (all funds) decrease in fiscal 2021 and 2022 and increase in fiscal 2023.

Small Business Effect: Nonprofits are not considered small businesses for purposes of fiscal and policy notes, and Chapter 39 already allows for significant deferral of reimbursement payments for small nonprofits.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2021
rh/ljm

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Appendix – Unemployment Insurance

Program Overview

Unemployment Insurance (UI) provides temporary, partial wage replacement benefits of up to $430 per week to individuals who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for UI programs. Generally, funding for the program is provided by employers through UI taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their UI trust funds. Using federal tax revenues, the UI program is administered pursuant to state law by state employees. The Maryland Department of Labor's Division of Unemployment Insurance administers the State's UI program.

Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Employer Contributions

Most Maryland employers pay State UI taxes, although State and local governments and some nonprofit organizations reimburse the Unemployment Insurance Trust Fund (UITF) for claims paid in lieu of paying taxes. Therefore, for most Maryland employers, the State UI tax rate is a function of:

- the employer's specific unemployment claims history; and
- the applicable tax table, which is based on the State's UITF balance and applies to most taxable employers.

Exhibit 1 shows the range of State UI taxes a typical employer owes based on the tax table in effect; there are other rates for new employers and in other limited circumstances. State UI taxes and reimbursements are typically due quarterly; however, Chapter 39 allows employers with fewer than 50 employees to defer 2021 State UI tax payments or reimbursements until January 31, 2022, and authorizes the Secretary of Labor to offer a similar deferment in 2022. The Act, in conjunction with a recent executive order, also generally prevents UI claims made during the COVID-19 pandemic from increasing an employer's taxes – although Table F, with its broadly higher rates, is in effect in 2021.

Exhibit 1
Tax Tables and Applicable Employer Tax Rates

Tax Table	As of Sept. 30, if the Trust Fund Balance, As a Percentage of Taxable Wages		Trust Fund Balance ($ in Millions)		Then Next Year's Tax Rates Range from…			Annual Tax Per Employee (Rate x $8,500)		
	Exceeds	Up to	Exceeds	Up to	No Claims	Single Claim	Up to	No Claims	Single Claim	Up to
A	5.00%	N/A	$995.8	N/A	0.30%	0.60%	7.50%	$25.50	$51.00	$637.50
B	4.50%	5.00%	896.2	$995.8	0.60%	0.90%	9.00%	51.00	76.50	765.00
C	4.00%	4.50%	796.6	896.2	1.00%	1.50%	10.50%	85.00	127.50	892.50
D	3.50%	4.00%	697.1	796.6	1.40%	2.10%	11.80%	119.00	178.50	1,003.00
E	3.00%	3.50%	597.5	697.1	1.80%	2.60%	12.90%	153.00	221.00	1,096.50
F	0.00%	3.00%	0.0	597.5	2.20%	3.10%	13.50%	187.00	263.50	1,147.50

Notes: Fund balance threshold dollar amounts are based on the 2020 taxable wage base and are subject to change each year. A "single claim" represents the tax rate applicable to the lowest possible rate associated with nonzero (.0001 to .0027) benefit ratios. Taxes are applied to the first $8,500 earned by each employee, each year; compensation less than that amount reduces taxes owed accordingly. Table F is in effect in 2021 and is likely to be in effect for at least two more years; Table A had been in effect since 2016.

Source: Department of Legislative Services

Benefit Payments

Generally, the weekly benefit amount a claimant is eligible for is based on the quarterly wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest. The base period is the first four of the last five completed calendar quarters immediately preceding the start of the benefit year, or, if the individual does not qualify under that definition, the four most recently completed calendar quarters immediately preceding the start of the benefit year.

Weekly benefit amounts range from $50 to $430 per week, based on earnings in the base period. There is also a dependent allowance of $8 per dependent, for up to five dependents, although the allowance cannot raise the weekly benefit amount above $430. The first $50 of any wages earned by an individual receiving UI benefits in a given week is disregarded for purposes of calculating the weekly benefit amount, after which the benefit payment is reduced dollar for dollar. These amounts do not adjust for inflation. Generally, during a benefit year, a claimant is entitled to 26 times the claimant's weekly benefit amount. During periods of high unemployment, extended benefits may also be available.